

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

HOWARD E. MARTIN, III,

Plaintiff,

v.

STATE OF OHIO,

Defendant.

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Case No. 2:18-CV-1147

JUDGE ALGENON L. MARBLEY

Magistrate Judge Vascura

OPINION & ORDER

This matter is before the Court on Plaintiff Howard Martin’s (“Martin”) Motion for Reconsideration (ECF No. 31). For the reasons set forth below, Plaintiff’s Motion is **DENIED**.

I. Background

Plaintiff was convicted in state court and, proceeding without the assistance of counsel, filed a document that he labeled “notice of appeal” with this Court. (ECF No. 1). The Magistrate Judge issued a Notice of Deficiency because Mr. Martin failed to file a motion to proceed in forma pauperis or pay the filing fee, and advised Mr. Martin to file a petition for writ of habeas corpus to the extent he alleged his criminal conviction violated his constitutional rights. (ECF No. 2). The Magistrate Judge considered Plaintiff’s subsequent filings, and recommended the Court dismiss the action for failure to state a claim. (ECF No. 6). This Court issued an order adopting the Magistrate’s Report and Recommendation in its entirety. (ECF No. 29).

II. Analysis

Plaintiff filed this “Objection” to the Court’s Order Adopting the Magistrate’s Report and Recommendation, which this Court construes as a Motion for Reconsideration. Plaintiff states he objects to the Order “based on the grounds that the Plaintiff filed a motion for the appointment of counsel, and the courts failed to provide the Plaintiff with his constitutionally protected interest

of appointment to counsel.” (ECF No. 31). Plaintiff further states he was appointed seven attorneys, though felt none of them represented him adequately, and, in the process, violated his Fifth Amendment due process rights because he was not appointed counsel when he motioned for one. (*Id.*).

Plaintiff appears to be reasserting what this Court suggested might constitute state-law attorney malpractice claims. This Court discussed these claims in its Order adopting the Magistrate Judge’s Report and Recommendation. (ECF No. 29 at 9). This Court declined to exercise subject matter jurisdiction over this issue because it had dismissed all claims over which it had original jurisdiction, and no diversity jurisdiction remained with respect to the state claims. (*Id.*). Plaintiff’s Objection This Court reaffirms this judgment.

For the reasons stated above, Plaintiff’s Motion for Reconsideration is hereby **DENIED**.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
Chief United States District Judge

Dated: November 15, 2019